



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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(603) 271-2900 FAX (603) 271-2456



Wakefield Thermal Solutions, Inc.
33 Bridge Street
Pelham, NH 03076

RE: Wakefield Engineering
33 Bridge Street, NH
EPA ID No. NHD500003587

ADMINISTRATIVE ORDER
No. WMD 03-09

April 17, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Wakefield Engineering pursuant to RSA 147-A:14. This Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH 03301.

2. Wakefield Thermal Solutions, Inc. d/b/a Wakefield Engineering ("Wakefield") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on August 16, 2001. Wakefield has a mailing address of, and operates a facility located at, 33 Bridge Street, Pelham, NH, 03076.

C. STATEMENT OF FACTS AND LAW

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.

2. Wakefield is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on June 25, 2001, stating an effective date of February 1, 2001. EPA Identification Number NHD500003587 was assigned to Wakefield's site located at 33 Bridge Street, Pelham, NH (the "Facility").

3. On December 12, 2002, DES personnel conducted an inspection (the "Inspection") of the Facility. The purpose of the Inspection was to determine Wakefield's compliance status relative to RSA 147-A and the Hazardous Waste Rules.
4. During the Inspection, DES personnel observed hazardous wastes stored in the main hazardous waste storage area (the "Chemical Pad"), in the "Caustic Room", and in the "Extrusion Room" located adjacent to the "Caustic Room".
5. Env-Wm 502.01 requires a generator of a waste to determine if the waste is a hazardous waste.
6. At the time of the Inspection, no formal hazardous waste determination had been performed on the waste lamps generated by Wakefield. DES personnel also confirmed that Wakefield has disposed of waste lamps in the on-site dumpster.
7. Env-Wm 507.01(a)(3) requires hazardous waste to be placed in containers or tanks that are closed at all times except to add or remove waste.
8. During the Inspection, DES personnel observed a total of four (4) containers of hazardous waste located on the "Chemical Pad" that were not closed. (See the attached Hazardous Waste Container Inventories).
9. Env-Wm 507.02(a) requires that hazardous waste that is generated, and accumulated on-site without a permit, must be shipped off-site within 90 days of the date when accumulation first began, except as provided in Env-Wm 508.02, Env-Wm 508.03, and Env-Wm 509.03.
10. Env-Wm 401.03(b)(11) states that hazardous waste generated in a process unit is exempt from regulation before it exits the unit in which it is generated, unless the hazardous waste remains in the unit for greater than 90 days after the unit ceases to be operated.
11. During the Inspection, DES personnel observed three (3) polyethylene dip tanks in the "Caustic Room". According to Wakefield personnel, two (2) of the three (3) dip tanks were removed from service in January 2002. The dip tank that is still in service has a capacity of 320 gallons. The two (2) "former dip tanks" have capacities of 120 gallons and 800 gallons. DES personnel observed, and Wakefield personnel confirmed, that these two (2) "former dip tanks" contain hazardous waste caustic solution/caustic sludge.
12. During the Inspection, DES personnel observed one (1) 55-gallon container marked "Hazardous waste – caustic solution" had a marked date of accumulation of "12/3/01" (374 days), and one (1) 55-gallon container marked "Hazardous waste – caustic solution" had a marked date of accumulation of "2/1/02" (314 days). An additional eleven (11) 55-gallon containers located on the "Chemical Pad" and the two "former dip tanks" located in the "Caustic Room" contain hazardous waste but were not marked with the beginning accumulation dates. Wakefield personnel informed DES personnel that the waste in these containers and dip tanks have also been stored on-site for greater than 90-days.

13. Env-Wm 507.03(a)(1)a. requires containers and tanks to be marked with the beginning accumulation date when they are first used to store hazardous waste.
14. During the Inspection, DES personnel observed a total of eleven (11) 55-gallon containers of hazardous waste located on the "Chemical Pad" and one (1) 55-gallon container of hazardous waste located in the "Extrusion Room" that were not marked with the beginning accumulation date. (See the attached Hazardous Waste Container Inventories).
15. Env-Wm 507.03(a)(1)b., c., and d. require containers and tanks used for the storage of hazardous waste to be clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number.
16. During the Inspection, DES personnel observed a total of eleven (11) 55-gallon containers of hazardous waste located on the "Chemical Pad" and one (1) 55-gallon container of hazardous waste located in the "Extrusion Room" that were not marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number. (See the attached Hazardous Waste Container Inventories).
17. Env-Wm 507.03(a)(2) requires that all containers used for the storage of hazardous waste have labels that are not hidden by walls or other containers.
18. At the time of the Inspection, one (1) 55-gallon container labeled "Hazardous Waste – Caustic Solution" located on the "Chemical Pad" was obscured. (See the attached Hazardous Waste Container Inventories).
19. Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements, requires full quantity generators to conduct inspections of the Facility, including the hazardous waste storage area, and to document the inspections.
20. At the time of the Inspection, Wakefield was not conducting and documenting inspections of the hazardous waste storage area (the "Chemical Pad").
21. Env-Wm 509.02(a)(2), which references 40 CFR Part 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program for its employees responsible for handling hazardous waste.
22. At the time of the Inspection, Wakefield did not have a complete personnel training program and was not providing hazardous waste training to employees responsible for handling hazardous waste.
23. Env-Wm 509.02(a)(5), which references 40 CFR Part 265, Subpart D, Contingency Plan and Emergency Procedures, requires full quantity generators to maintain a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

24. At the time of the Inspection, Wakefield did not have a complete hazardous waste contingency plan. A document entitled "*Emergency Response and Contingency Plan*" was available, which addressed a portion of the requirements for a contingency plan.
25. Env-Wm 509.02(b) requires a list of the steps to take in the event of an emergency and emergency numbers to be posted at the telephone nearest to each hazardous waste storage area.
26. During the Inspection, DES personnel confirmed that Wakefield did not have an emergency phone posting located at the telephone nearest to the hazardous waste storage area.
27. Env-Wm 510.02 (d) requires that the generator retain one (1) copy of the manifest, give five (5) copies to the transporter, and forward one (1) copy to the destination state and one (1) copy to DES within five (5) days of shipment.
28. At the time of the Inspection, Wakefield had on file eight (8) hazardous waste manifests that had not been submitted to DES.
29. Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label their containers and tanks with the words "Used Oil for Recycle" at all times during accumulation and storage.
30. At the time of the Inspection, one (1) 55-gallon container of used oil observed in the "Fabrication Room" was labeled "Waste Oil" and was not labeled with the words "Used Oil for Recycle". (See the attached Used Oil Container Inventory).
31. Env-Wm 807.06(b)(5) requires that used oil be placed in containers or tanks that remain closed at all times, except to add or remove wastes.
32. At the time of the Inspection, the one (1) 55-gallon container of used oil observed in the "Fabrication Room" was not closed. (See the attached Used Oil Container Inventory).
33. Env-Wm 807.06(b)(7) requires generators to conduct an initial used oil determination by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03.
34. During the Inspection, Wakefield personnel explained the processes that generate the used oil and DES personnel observed the following in regards to used oil determinations:
 - a. Used oil is generated from the maintenance of fifty-six (56) machines ("CNC machines") used in the fabrication process and located in the "Fabrication Room". The CNC machines contain an oil-based coolant which is skimmed from the machines throughout the work shift and placed into a 55-gallon container. At the time of the Inspection, one (1) 55-gallon container of used oil was observed in the "Fabrication Room". The used oil is currently shipped off-site for recycling as a non-hazardous waste/off-specification used oil. To date, Wakefield has not performed a used oil determination on the "oil-based coolant" used oil.

- b. Used oil is also generated from the aluminum extrusion process. Oil is sprayed onto the aluminum before the aluminum is pushed through the die. During the Inspection, DES personnel observed an oil pit located beneath the press in the "Extrusion Room". The used oil is shipped off-site for disposal as a non-hazardous waste/off-specification used oil. To date, Wakefield has not performed a used oil determination on the used oil generated from the press.

D. DETERMINATION OF VIOLATIONS

Wakefield has violated Env-Wm 502.01 by failing to determine if its waste is a hazardous waste.

- 2. Wakefield has violated Env-Wm 507.01(a)(3) by failing to close all hazardous waste containers and tanks except to add or remove waste.
- 3. Wakefield has violated Env-Wm 507.02(a) by failing to ship hazardous waste off-site within 90 days of the date when accumulation first began, except as provided in Env-Wm 508.02, Env-Wm 508.03, and Env-Wm 509.03.
- 4. Wakefield has violated Env-Wm 507.03(a)(1)a. by failing to mark each hazardous waste container and tank with the beginning accumulation date when they are first used to store hazardous waste.
- 5. Wakefield has violated Env-Wm 507.03(a)(1)b., c., and d. by failing to mark each hazardous waste container with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number when they are first used to store hazardous waste.
- 6. Wakefield has violated Env-Wm 507.03(a)(2) failing to ensure that all containers used for the storage of hazardous waste have labels that are not hidden by walls or other containers.
- 7. Wakefield has violated Env-Wm 509.02(a)(1) by failing to conduct inspections of the Facility, including the hazardous waste storage area.
- 8. Wakefield has violated Env-Wm 509.02(a)(2) by failing to maintain a complete personnel training program and to adequately train all personnel handling hazardous waste.
- 9. Wakefield has violated Env-Wm 509.02(a)(5) by failing to maintain a complete contingency plan at the Facility.
- 10. Wakefield has violated Env-Wm 509.02(b) by failing to post emergency information at the telephone nearest to the hazardous waste storage area.
- 11. Wakefield has violated Env-Wm 510.02 by failing to submit copies of eight (8) hazardous waste manifests to DES.

12. Wakefield has violated Env-Wm 807.06(b)(4) by failing to mark the used oil container with the words "Used Oil for Recycle".
13. Wakefield has violated Env-Wm 807.06(b)(5) by failing to close the used oil container except to add or remove waste.
14. Wakefield has violated Env-Wm 807.06(b)(7) by failing to conduct adequate used oil determinations for the "oil-based coolant" used oil and the used oil generated from the press.

E. ORDER

Based on the above findings, DES hereby orders Wakefield as follows:

Perform a hazardous waste determination as specified in Env-Wm 502.01 for the waste lamps; and submit the results along with any supporting data used to make the hazardous waste determination to DES. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules, Env-Wm 100-1100.

COMPLETED

Alternatively, Wakefield may elect to manage waste lamps as "universal waste" in accordance with Env-Wm 1100. The DES Environmental Fact Sheet #WMD-HW-7 "Universal Waste Lamps: Management Requirements for Handlers and Transporters," and a DES "Fluorescent Lamp and Ballast Recycling Facility" were provided to Wakefield personnel at the time of the Inspection.

Note. On March 20, 2003, Wakefield submitted a copy of their new universal waste management program, which stated they have elected to manage waste lamps as universal waste in accordance with Env-Wm 1100.

2. Ensure that hazardous waste containers are properly sealed, and bungs or lids are closed except when wastes are actually being added to or removed from the container as specified in Env-Wm 507.01(a)(3).

COMPLETED

Note. In a February 25, 2003 submittal, Wakefield Operations Manager, Tony Escobar, stated that all containers of hazardous waste were closed on December 19, 2002.

- 3 The Facility must arrange for and complete off-site transportation and disposal of the thirteen (13) containers of hazardous waste and the hazardous waste contained in the two "former dip tanks" that have been in storage for greater than 90 days.

COMPLETED

Ensure all hazardous waste is shipped off-site within 90 days of when accumulation of the waste first began, as specified in Env-Wm 507.02(a)(3), unless the waste is being accumulated in accordance with Env-Wm 509.03, the "satellite storage provision".

On March 19, 2003, DES received faxed copies of hazardous waste manifests. On December 19, 2002, Wakefield shipped all 55-gallon containers that were stored on-site at the time of the Inspection for off-site disposal. On February 5, 2003, Wakefield shipped twenty-seven (27) 55-gallon containers of waste caustic sludge from the two former dip tanks for off-site disposal. All manifest copies were sent in the DES.

4. Ensure that all hazardous waste containers and tanks are clearly marked with the beginning date of accumulation, as specified in Env-Wm 507.03(a)(1)a. **COMPLETED**

In the February 25, 2003 submittal, Mr. Escobar stated that all containers were labeled on December 13, 2002 and that all personnel involved in the generation of hazardous wastes have been instructed to follow the labeling procedure.

5. Ensure that all hazardous waste containers and tanks are clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number, as specified in Env-Wm 507.03(a)(1)b., c., and d. **COMPLETED**

In the February 25, 2003 submittal, Mr. Escobar stated that all containers were labeled on December 13, 2002 and that all personnel involved in the generation of hazardous wastes have been instructed to follow the labeling procedure.

6. Ensure that all containers used for the storage of hazardous waste have labels that are accessible for viewing. **COMPLETED**

The one (1) 55-gallon container whose label had been obscured was moved during the December 12, 2002 Inspection to allow the label to be viewed.

7. The Facility must develop and implement a general inspection program, as specified in Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements. This program must provide for, at a **COMPLETED**

minimum, weekly inspections of areas where hazardous wastes are stored.

On February 25, 2003, Wakefield submitted a copy of their inspection checklist to be used in their general inspection program.

8. The Facility must amend and maintain its personnel training program as specified in Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, including: **COMPLETED**

a. Ensure that all personnel handling hazardous waste receive initial hazardous waste management training and annual updates of their training [40 CFR 265.16(c)]; and

b. Ensure that the following documents and records are maintained at the Facility:

1. Job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job;

2. A written job description, including requisite skills, education and duties, for positions with hazardous waste management duties; and,

3. Documentation that training has been completed.

On February 19, 2003, DES received training documentation for all personnel with hazardous waste duties, as well as a description of the training course provided to those personnel. On March 13, 2003, Wakefield submitted a copy of the revised training plan which is located within the Facility's "Emergency Response and Contingency Plan".

9. The Facility must amend the site specific contingency plan as specified in Env-Wm 509.02(a)(5), which references 40 CFR 265 Subpart D, Contingency Plan and Emergency Procedures, including, but not limited to: **COMPLETED**

a. Listing all emergency equipment at the Facility, including the location, physical description, and capabilities of each item [40 CFR 265.52(e)];

b. Provisions to notify DES (603-271-3899) or the New Hampshire Department of Safety Hazmat Unit (800-346-4009) if human health or the environment is threatened;

- c. Listing the specific information to provide to local authorities during an emergency [40 CFR 265.56(d)(2)];
- d. Ensuring that no waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed [40 CFR 265.56(h)(1)]; and
- e. Listing the specific elements to be included in a 15-day report [40 CFR 265.56(j)].

Note. On March 13, 2003, Wakefield submitted a copy of the revised "Emergency Response and Contingency Plan".

10. The Facility must ensure that a list of the steps to take in the event of an emergency are posted at the telephone nearest to each hazardous waste storage area, as specified in Env-Wm 509.02(b).

COMPLETED

Note. On March 19, 2003, Wakefield submitted a copy of the emergency posting which was posted at the telephone nearest to the "Chemical Pad".

Submit the eight (8) hazardous waste manifests to DES and properly retain and distribute manifest copies for future shipments of hazardous waste.

COMPLETED

Note. The eight (8) hazardous waste manifests were submitted to DES personnel during the December 12, 2002 Inspection.

Ensure that all used oil containers are clearly marked with the words "Used Oil for Recycle", as specified in Env-Wm 807.06(b)(4).

COMPLETED

In the February 25, 2003 submittal, Mr. Escobar stated that all used oil containers were labeled on December 19, 2002.

13. Ensure that used oil containers are properly sealed, and bungs or lids are closed except when oil is actually being added to or removed from the container as specified in Env-Wm 807.06(b)(5).

COMPLETED

In the February 25, 2003 submittal, Mr. Escobar stated that used oil containers were closed on December 19, 2002.

14. Perform used oil determinations as specified in Env-Wm 807.06(b)(7) for the "oil-based coolant" used oil and the

60 DAYS

used oil generated from the press, and submit the results along with any supporting data to DES.

Note. Used oil analytical results were submitted to DES on February 19, 2003. Based on these results, the used oil generated from the press was classified as an on-specification used oil. The "oil-based coolant" used oil was classified as a hazardous waste due to total halogens content. In an email received on February 25, 2003, Mr. Escobar indicated that the Facility will manage the "oil-based coolant" used oil as a hazardous waste using waste code NH01.

The Facility, therefore, must conduct a hazardous waste determination for the "oil-based coolant" used oil to determine if it exhibits any additional hazardous waste characteristics or contains solvent that are listed hazardous wastes. This determination should be made using analytical testing and should include, at a minimum, Toxicity Characteristic Leaching Procedure for organics under Env-Wm 403.06. Please be advised that a waste determination may also be accomplished by the Facility using knowledge of the hazardous constituents or characteristics of the waste, based on the materials or processes used to generate the waste.

Wakefield will need to provide the results of the hazardous waste determination, along with any other supporting data, to DES. For your convenience, enclosed is a list of laboratories that perform hazardous waste analysis. Should the waste prove to have hazardous waste characteristics or contain listed hazardous wastes, the assignment of the appropriate hazardous waste codes would be required.

15. Submit a written status report to DES within thirty-five (35) calendar days, and a second report within sixty-five (65) calendar days of the date of this Order, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance and copies of any written plans or proceedings developed.

16. Please address submittals, **other than appeals**, to:

Kenneth W. Marschner, Administrator
DES, WMD
6 Hazen Drive
Concord, New Hampshire 03301

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from DES's Public Information Center at (603) 271-2975 or at <http://www.des.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Wakefield of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 147-A:17 provides for civil forfeitures of up to \$50,000 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES will continue to monitor the compliance status of Wakefield to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations will result in additional enforcement action being taken. Wakefield is required to maintain compliance with all on-going requirements, including those identified as being "COMPLETED" in Section E of the Order.

Wakefield may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to Wakefield.

COPY

Philip J. O'Brien, Ph.D., P.G., Director
Waste Management Division
Department of Environmental Services

COPY

Robert Monaco
Acting Commissioner
Department of Environmental Services

CERTIFIED MAIL/RRR# 7099 3400 0002 9774 1532

cc: DB/RCRA/ORDER/ARCHIVE
Gretchen Rule, Administrator, DES Legal Unit
Public Information Coordinator, DES
Jennifer Patterson, NHDOJ-OAG
Town Clerk, Pelham, NH
Tony Escobar, Wakefield, Operations Manager

e-mail: John Duclos, HWCS

enclosure: Hazardous Waste Generator Inspection Report
Container Inventories
Laboratories that perform hazardous waste analysis